

### **REMARKS**

Claims 57-62 are pending in the present application and under examination. Claims 57-62 are amended. Claims 63-66 are added. Support for claims 63-66 can be found throughout the specification. Claim amendments are for purposes of improved clarity or consistency of claim language unless otherwise noted. No claim amendment should be construed as an acquiescence in any ground of rejection. Applicants reserve the right to prosecute canceled subject matter in future applications. After entry of the amendments, claims 57-66 will be pending.

#### **Specification**

The specification is amended to include the priority claim. This amendment adds no new matter.

#### **Rejection under 35 U.S.C. § 112, written description**

Claims 57-62 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, has possession of the claimed invention. According to the Action, the specification does not contain adequate written description for the genus comprising alkaloids isolated using the claimed methods or for the genus comprising any variant or fragment of SEQ ID NO. 10 that leads to the production of the claimed alkaloids. Although Applicant do not concur, in order to expedite prosecution, claims 57, 59, and 60 have been amended to recite that the alkaloids are morphine, codeine, oripavine, or thebaine. Support for this amendment can be found, for example, in the claims as originally filed. Claims 57, 59, and 60 have also been amended to recite that the polynucleotide comprises the coding region of SEQ ID NO:10. The skilled practitioner would have no trouble identifying the coding region of SEQ ID NO:10. Support for this amendment can be found, for example, in the claims as filed and on page 4, lines 8-28 of the specification. Accordingly, Applicants respectfully request that the rejection of claims 57-62 under 35 U.S.C. § 112, first paragraph, be withdrawn.

DOCKET NO.: J&J 1673  
Application No.: 09/486,757  
Office Action Dated: May 27, 2005

PATENT

**Rejection under 35 U.S.C. § 103(a)**

Claims 57-62 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosco et al. in view of Fist et al. Applicants respectfully traverse this rejection, at least because the Rosco reference is not available as prior art under 35 U.S.C. § 103. The present application claims priority under 35 U.S.C. § 119 to Australian Application Number PP8872 filed August 29, 1997. Rosco et al. reference was published December 15, 1997. Accordingly, the rejection based on Rosco et al. in view of Fist et al. is improper and should be withdrawn.

The foregoing represents a *bona fide* attempt to advance the present case to allowance. Applicant submits that this application is now in condition for allowance. Accordingly, an indication of allowability and an early Notice of Allowance are respectfully requested.

Date: 9/27/05

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